

**ASSEMBLY BILL**

**No. 53**

---

**Introduced by Assembly Member Solorio**  
**(Coauthors: Assembly Members Davis, Furutani, and Mendoza)**  
(Coauthor: Senator Price)

December 6, 2010

---

An act to add Article 10.2 (commencing with Section 927) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurers.

LEGISLATIVE COUNSEL'S DIGEST

AB 53, as introduced, Solorio. Insurers: procurement contracts: women, minority, and disabled veteran business enterprises.

Existing law requires each admitted insurer to provide information to the Insurance Commissioner on all of its community development investments and community development infrastructure investments in California.

This bill would require that each admitted insurer, with gross annual revenues exceeding \$25,000,000, and their regulated subsidiaries and affiliates, submit annually to the commissioner a detailed and verifiable plan for increasing procurement from women, minority, and disabled veteran business enterprises, as specified.

The bill would require the commissioner to, among other things, establish guidelines for all admitted insurers to be used in establishing these programs, provide a report to the Legislature on September 1 of each year on the progress of activities undertaken by each admitted insurer in the implementation of these programs, and to develop and require admitted insurers subject to this bill and their regulated subsidiaries and affiliates to implement an outreach program to inform

and recruit eligible business enterprises to apply for procurement contracts.

The bill would provide that any person or corporation, through its directors, officers, or agents, this falsely represents a business as a women, minority, or disabled veteran business enterprise in the procurement of, or attempt to procure, a contract from an admitted insurer subject to this bill, or a regulated subsidiary or affiliate, be punished by a fine of not more than \$5,000, by imprisonment in a county jail for not more than one year or in the state prison, or by both that fine and imprisonment. Because this bill would create a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 10.2 (commencing with Section 927) is  
2 added to Chapter 1 of Part 2 of Division 1 of the Insurance Code,  
3 to read:

4  
5 Article 10.2. Women, Minority, and Disabled Veteran Business  
6 Enterprises  
7

8 927. (a) The Legislature hereby declares that the essence of  
9 the American economic system of private enterprise is free  
10 competition. Only through full and free competition can free  
11 markets, reasonable and just prices, free entry into business, and  
12 opportunities for the expression and growth of personal initiative  
13 and individual judgment be ensured in all of the state's  
14 communities. The preservation and expansion of that competition  
15 is basic to the economic well-being of this state and that well-being  
16 cannot be realized unless the actual and potential capacities of  
17 women, minority, and disabled veteran business enterprises are  
18 encouraged and developed. The state's diverse composition propels  
19 economic innovation and growth, and the economy's full

1 employment potential cannot be achieved if these communities  
2 are left underutilized. Therefore, it is the declared policy of the  
3 state to aid the interests of women, minority, and disabled veteran  
4 business enterprises in order to preserve reasonable and just prices  
5 and a free competitive enterprise, to ensure that a fair proportion  
6 of the total purchases and contracts or subcontracts for  
7 commodities, supplies, technology, property, and services for  
8 regulated insurance providers are awarded to women, minority,  
9 and disabled veteran business enterprises, and to maintain and  
10 strengthen the overall stability and growth of the state's economy.

11 (b) (1) The Legislature declares all of the following:

12 (A) The opportunity for full participation in our free enterprise  
13 system by women, minority, and disabled veteran business  
14 enterprises is essential if this state is to approach full employment  
15 of its human resources and improve economic efficiency and equity  
16 in opportunity.

17 (B) Public utilities and telecommunications companies, which  
18 have established short- and long-range women, minority, and  
19 disabled veteran business enterprise goals, are awarding 30 percent  
20 or more of their contracts to these business enterprises.

21 (C) Women, minority, and disabled veteran business enterprises  
22 have traditionally received less than a proportionate share of  
23 regulated procurement contracts.

24 (D) It is in the state's interest to expeditiously improve the  
25 economically disadvantaged position of women, minority, and  
26 disabled veteran business enterprises.

27 (E) The position of these businesses can be improved by  
28 providing long-range substantial goals for procurement by  
29 regulated insurance providers of technology, equipment, supplies,  
30 services, materials, and construction work from women, minority,  
31 and disabled veteran businesses.

32 (F) That procurement also benefits the regulated insurance  
33 companies and consumers of the state by encouraging the  
34 expansion of the number of suppliers for procurements, thereby  
35 encouraging competition among the suppliers and promoting  
36 economic efficiency in the process.

37 (2) It is the purpose of this article to do all of the following:

38 (A) Encourage greater economic opportunity for women,  
39 minority, and disabled veteran business enterprises in the ninety  
40 billion dollar (\$90,000,000,000) California insurance market.

1 (B) Promote competition among the suppliers of regulated  
2 insurance providers in order to enhance economic efficiency in  
3 the procurement of contracts relevant to the insurance industry  
4 and contracts of the subsidiaries and affiliates of those insurance  
5 providers.

6 (C) Clarify and expand the program for the procurement by  
7 regulated insurance providers of technology, equipment, supplies,  
8 services, materials, and construction work from women, minority,  
9 and disabled veteran business enterprises.

10 927.1. For the purposes of this article, the following definitions  
11 apply:

12 (a) “Women business enterprise” means a business enterprise  
13 that is at least 51 percent owned by a woman or women, or, in the  
14 case of any publicly owned business, at least 51 percent of the  
15 stock of which is owned by one or more women, and whose  
16 management and daily business operations are controlled by one  
17 or more of those individuals.

18 (b) “Minority business enterprise” means a business enterprise  
19 that is at least 51 percent owned by a minority group or groups,  
20 or, in the case of any publicly owned business, at least 51 percent  
21 of the stock of which is owned by one or more minority groups,  
22 and whose management and daily business operations are  
23 controlled by one or more of those individuals. The contracting  
24 admitted insurer shall presume that minority includes African  
25 Americans, Hispanic Americans, Native Americans, and Asian  
26 Pacific Americans.

27 (c) “Disabled veteran business enterprise” has the same meaning  
28 as defined in subparagraph (A) of paragraph (7) of subdivision (b)  
29 of Section 999 of the Military and Veterans Code.

30 (d) To “control” means exercise the power to make policy  
31 decisions.

32 (e) To “operate” means to be actively involved in the day-to-day  
33 management and not merely officers or directors.

34 927.2. (a) (1) Each insurer admitted in California, with gross  
35 annual revenues exceeding twenty-five million dollars  
36 (\$25,000,000), and their regulated subsidiaries and affiliates, shall  
37 be required to submit annually to the commissioner a detailed and  
38 verifiable plan for increasing procurement from women, minority,  
39 and disabled veteran business enterprises.

1 (2) These annual plans shall include short- and long-term goals  
2 and timetables, but not quotas, and shall include methods for  
3 encouraging contractors to engage women, minority, and disabled  
4 veteran business enterprises in subcontracts in all areas that provide  
5 subcontracting opportunities.

6 (b) The commissioner shall establish guidelines for all admitted  
7 insurers with gross annual revenues exceeding twenty-five million  
8 dollars (\$25,000,000) and their regulated subsidiaries and affiliates,  
9 to be utilized in establishing programs pursuant to this article.

10 (c) Each admitted insurer, with gross annual revenues exceeding  
11 twenty-five million dollars (\$25,000,000), shall furnish an annual  
12 report to the commissioner regarding the implementation of  
13 programs established pursuant to this article in a form that the  
14 commissioner shall require, and at the time that the commissioner  
15 shall annually designate.

16 (d) (1) Notwithstanding Section 10231.5 of the Government  
17 Code, the commissioner shall provide a report to the Legislature  
18 on September 1 of each year on the progress of activities  
19 undertaken by each admitted insurer with gross annual revenues  
20 exceeding twenty-five million dollars (\$25,000,000) pursuant to  
21 this article in the implementation of women, minority, and disabled  
22 veterans business enterprise development programs. The report  
23 shall include information about which procurements are made  
24 from women, minority, and disabled veteran business enterprises  
25 with at least a majority of the enterprise's workforce in California,  
26 to the extent that information is readily accessible. The  
27 commissioner shall recommend a program for carrying out the  
28 policy declared in this article, together with recommendations for  
29 legislation that the commissioner deems necessary or desirable to  
30 further that policy.

31 (2) In regard to disabled veteran business enterprises, the  
32 commissioner shall ensure that the programs and legislation  
33 recommended pursuant to paragraph (1) are consistent with the  
34 disabled veteran business enterprise certification eligibility  
35 requirements imposed by the Department of General Services and  
36 that the recommendations address themselves to only those disabled  
37 veteran business enterprises certified by the Department of General  
38 Services.

1 (3) A report to be submitted pursuant to this subdivision shall  
2 be submitted in compliance with Section 9795 of the Government  
3 Code.

4 (e) The Legislature declares that each admitted insurer that is  
5 not required to submit a plan pursuant to subdivision (a) is  
6 encouraged to voluntarily adopt a plan for increasing women,  
7 minority, and disabled veteran business enterprise procurement.

8 927.3. (a) (1) The commissioner shall, by regulation, adopt  
9 criteria for verifying and determining the eligibility of women and  
10 minority business enterprises for procurement contracts.

11 (2) The commissioner shall adopt the Department of General  
12 Services' disabled veteran business enterprise certification  
13 eligibility requirements for verifying and determining the eligibility  
14 of disabled veteran business enterprises for procurement contracts,  
15 and shall not deem eligible those disabled veteran business  
16 enterprises that are not certified by the Department of General  
17 Services.

18 (b) The commissioner shall develop and require each admitted  
19 insurer with gross annual revenues exceeding twenty-five million  
20 dollars (\$25,000,000) and their regulated subsidiaries and affiliates  
21 to implement an outreach program to inform and recruit women,  
22 minority, and disabled veteran business enterprises to apply for  
23 procurement contracts under this article.

24 927.4. Any person or corporation, through its directors, officers,  
25 or agents, that falsely represents a business as a women, minority,  
26 or disabled veteran business enterprise in the procurement of, or  
27 attempt to procure, a contract from an admitted insurer with gross  
28 annual revenues exceeding twenty-five million dollars  
29 (\$25,000,000), or a regulated subsidiary or affiliate subject to this  
30 article, shall be punished by a fine of not more than five thousand  
31 dollars (\$5,000), by imprisonment in a county jail for not more  
32 than one year or in the state prison, or by both that fine and  
33 imprisonment. In the case of a corporation, the fine or  
34 imprisonment, or both, shall be imposed on every director, officer,  
35 or agent responsible for the false statements.

36 927.5. In order to facilitate the participation of women-owned  
37 businesses, minority-owned businesses, disabled veteran-owned  
38 businesses, and small businesses in contract procurement, any  
39 corporation subject to this article may consider the following

1 measures to include those businesses in all phases of their  
2 contracting:

3 (a) Timely or progressive payments to those businesses.

4 (b) The provision of assistance to those businesses by securing  
5 contract payments to those businesses with letters of credit,  
6 negotiable securities, or other financing arrangements or measures.

7 SEC. 2. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.